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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,234	06/07/2002	Yvette Pescher	004900-214	1551

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EXAMINER

BARRY, CHESTER T

ART UNIT PAPER NUMBER

1724

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,234

Applicant(s)

PESCHER ET AL.

Examiner

Chester T. Barry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on interview of 4/22-4/24.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Per Applicants' request noted on the attached interview summary, the Office action mailed 12/18/02 is vacated and withdrawn so that the following non-final Office action may be taken.

Claims 1- 2 are rejected under §102(b) as clearly anticipated by USP 5830388 (see column 4, line 43 to column 8, line 11).

Claims 1 and 3/1 are rejected under 35 USC §102(b) as clearly anticipated by USP 5763530 to Chen. Chen describes a composition useful for conditioning sludge obtained by mixing at least one invert emulsion containing at least one cationic polyelectrolyte with an invert emulsion. Chen also describes a composition useful for conditioning sludge obtained by mixing at least one invert emulsion containing at least one cationic polyelectrolyte with an aqueous solution containing at least one mineral cation with a charge of greater than or equal to two.

Claim 2 is rejected under 35 USC §102(b) as clearly anticipated by USP 5763530 to Chen. Chen describes a composition useful for conditioning sludge characterized in that it is in the form of an invert emulsion comprising an aqueous phase or phases and separately at least one mineral cation of a charge of greater than or equal to 2 and a cationic polyelectrolyte.

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It is suggested that in Claim 2 at line 2, "in" be changed to -- an --. This suggestion is not an objection or rejection substantially related to patentability of claim 2.

Claim 1 is rejected under §103(a) over USP 4606913 to Aronson in view of USP 6120690 to Haase. Aronson describes an invert emulsion containing a cationic polyelectrolyte. Aronson suggests adding other ingredients either to either the aqueous phase or oil phase before forming the water-in-oil emulsion, or after forming the emulsion if the added ingredient is to form a non-emulsion phase. See col 19. Haase describes addition of aluminum sulfate to a cationic polyelectrolyte composition to improve clarification of water. It would have been obvious to have added an aluminum sulfate solution to Aronson's composition in order to accomplish not only dewatering or sludge but also clarification of the clarified water. Insofar as it is unpredictable whether the added aluminum sulfate solution would form a non-emulsion phase or would be added to the dispersed aqueous phase of Aronson's invert emulsion, it would have been obvious to have added the aluminum sulfate solution to the invert emulsion to see whether a non-emulsion phase would form.

Claim 4 is rejected under 35 USC §112, second paragraph, for failing to particularly point out and distinctly claim the subject matter for which patent protection is sought. Claim 4 recites a "double water / oil / water emulsion." It is unclear if the recited expression means that there are two emulsions, each of

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which has one continuous oil phase and two dispersed water phases, e.g., a multimodal invert emulsion (see Chen for definition of multimodal emulsion). Alternatively, it is unclear if the recited expression means that there is one and only one invert emulsion, said emulsion having two distinct dispersed water phases, e.g., a multimodal invert emulsion. Alternatively, it is unclear if the quoted expression means a "water phase / oil-in-water emulsion." Separately, it is unclear what "at the level of the continuous water phase" means for two reasons: 1) "[A]t the level" cannot be understood and 2) reference to "the" continuous water phase implies the existence of a oil-in-water emulsion. This implication runs contrary to the requirement that the emulsion be an invert emulsion, i.e., a water-in-oil emulsion. In view of the unreasonable degree of claim scope precision substantially related to patentability, no meaningful search of claim 4 in its present form could be performed.

Claims 5 – 20 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim may not dependent from a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5 – 20 will not been further treated on the merits.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show what is meant by a "double water/oil/water emulsion" as recited in the specification (original claim 4). Any structural detail that is essential for a proper understanding of the disclosed invention – such as the detail of a "double

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water/oil/water emulsion"- should be shown in the drawing. MPEP § 608.02(d). Furthermore, the drawings are objected to for the reasons given by the Draftsperson on the attached PTO-948. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

References C – F are cited of interest.

If Applicant wishes to discuss the merits of the application with the examiner, either in person or over the telephone, applicant is requested to mail PTO form PTOL-413A (03-03) ("Applicant Initiated Interview Request Form") to the examiner in advance of the requested interview date so that a mutually convenient time for the interview may be scheduled. See MPEP 713.01. If you need assistance in completing the form, please call 1-800-PTO-9199 and select option 2. Alternatively, Applicant may file the Interview Request Form via fax to 703-892-9310 if before final action, or 703-892-9311 if before final action.

Respectfully,



CHESTER T. BARRY
PRIMARY EXAMINER

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703-306-5921